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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

CHARLES C. CHOW et al.,

Plaintiffs, Respondents, and

Cross-Appellants,

v.

TED WIN WONG et al.,

Defendants, Appellants, and

Cross-Respondents;

CHINESE CONSOLIDATED BENEVOLENT ASSOCIATION,

Defendant, Appellant, and

Cross-Respondent.

A149449, A149536, A146563

(City & County of San Francisco Super. Ct. No. CGC13532450)

These three consolidated appeals arise out of a dispute between factions within San Francisco's Chinese Consolidated Benevolent Association (CCBA) over displaying the flag of the Republic of China (RoC). At their core, they address the propriety of the court's rulings after trial that (1) granted declaratory relief as to the validity of a vote by CCBA's board of directors to remove the RoC flag from display; (2) dismissed derivative claims for breach of fiduciary duty and aiding and abetting breach of fiduciary duty; and (3) sealed and prohibited disclosure of several Taiwanese officials' inadvertently disclosed email addresses. We dismiss the appeal from the protective order as moot and affirm the judgment.

BACKGROUND

I. The CCBA

The statement of decision summarizes the CCBA's historical background as follows. "1. The Chinese Consolidated Benevolent Association (CCBA) is a non-profit mutual benefit corporation organized under California Law. It has been in existence since the mid-1850s and was incorporated in 1901.

"2. When the CCBA was first formed and until 1911, China was ruled by the Qing dynasty. In 1912, the Republic of China, the first democratic state in Asia, was formed. There was a civil war in China, which ultimately led to the founding of the People's Republic of China in 1949. The Republic of China's government withdrew to Taiwan. The United States government recognized the Republic of China until 1978, at which time the United States recognized the People's Republic of China as the sole government of China.

"3. CCBA was formed by Chinese immigrants who came to the United States during the California gold rush. Part of CCBA's goal was to ensure the survival of the Chinese community in the United States due to anti-Chinese immigrant sentiment. CCBA became recognized by Chinese immigrants in the United States and other countries as a leader in the fight against laws discriminating against Chinese immigrants.

"4. In 1972, CCBA's Articles of Incorporation were amended and restated (Restated Articles). In Article II, paragraph A, the Restated Articles Provide: [¶] 'The specific and primary purpose for which this corporation is formed, said purposes being benevolent and charitable, are for aiding in all ways that may seem meet to [*sic*] indigent Chinese persons; for conserving the interests and welfare of all Chinese persons within the United states or such Chinese persons as may hereafter come within the United States during their residence within the United States, and to encourage and to practice among them benevolence and charity."

The CCBA consists of seven individual benevolent associations. It has a board of 55 directors. Each is selected by and represents a member association. The position of

Board president rotates every two months among the presidents of the member associations.

Addenda to the CCBA bylaws provide rules for voting on motions and resolutions. Pursuant to Addendum (2), " 'For each meeting, meeting attendees of more than 50% of the directors are required to meet quorum; as to voting on motions, the standard to pass shall be more than 50% of the meeting attendees. In cases of important matters, over two thirds of attendees must vote in favor for the motion to be adopted.' " Pursuant to Addendum (13), " 'Any amendment or overturn of a prior resolution must be proposed by two member attendees and seconded by four attendees; and it requires three fourths of the votes for it to pass.' "

II. The Flag Motion

For many years until mid-2013 the RoC flag was on continuous display in the CCBA meeting hall and was raised at the Chinese National Day (or "Double-Ten," referring to the holiday's October 10 date) ceremony in Chinatown. "Double-Ten" celebrates the birth of the RoC. It is not observed by the People's Republic of China.

The complaint alleged that, "given among other things the personal and/political views of CCBA members, the display of the [RoC] Flag has been controversial and a subject of Board discussion from time to time with some CCBA Board members favoring the interests of the People's Republic of China versus Taiwan, and thus, favoring the removal of the [RoC] Flag." At a Board meeting on May 25, 2013, then-president Ted Wong introduced a resolution that only the flags of the United States, California and CCBA would be displayed " 'within CCBA and its jurisdiction.' " With 42 of the 47 directors in attendance voting, the Board voted 21 to 20, with one abstention, in favor of the resolution.[1] Wong declared the resolution had been adopted and the RoC flag was removed from display at the CCBA meeting hall.

[1] We will refer to this as the May 25 vote.

III. The Lawsuit

Plaintiffs Charles Chow, Yiu Ting Cheung and Chung Lo Kwan sued CCBA and individual defendants Wong and Roger Louie, alleging there were insufficient votes in favor of the flag resolution for it to pass under CCBA Addenda (2) and (13).[2] As amended, the first and second causes of action "against Defendants derivatively on behalf of nominal defendant of Real Party in Interest CCBA" alleged the individual defendants breached their fiduciary duty and aided and abetted the other defendants' breaches of fiduciary duty to conduct CCBA's affairs in the organization's best interest and in accord with its rules and bylaws. The third cause of action, brought directly against all defendants, sought a declaratory judgment that the flag resolution was invalid and to enjoin defendants from enforcing it or acting in violation of the CCBA bylaws and addenda.

Following a five-day bench trial, the court found the flag resolution invalid. As explained in its statement of decision, "The May 25, 2013 meeting of CCBA directors had a quorum of directors in attendance—47 directors signed in with an additional director showing up later. Although there is some evidence that 43 ballots were handed out only 42 ballots were turned in. Of these ballots, 21 voted in favor of the Flag Motion; 20 voted against; and one vote abstained. Bylaws Addendum (2), by its terms requires that more than 50 percent of the meeting attendees vote to pass a motion. In order to pass, the Flag Motion needed to receive 22 votes. It only received 21 votes. As a result, the Flag Motion did not pass."

The court further found that "[b]y any definition" the flag motion was an "important matter" that required more than a two-thirds supermajority for passage under Addendum (2). "The evidence reflects that for some time CCBA has wrestled internally with issues related to the display of the Republic of China flag and the strong division of feelings/opinions engendered within CCBA's membership regarding the principles the

[2] The complaint sought additional relief based on claims related to a CCBA building renovation project and Wong's termination of CCBA counsel. This appeal raises no issues concerning those claims.

flag does or does not represent. Addressing and airing these issues, no matter what the outcome, is 'important' to CCBA on either an objective or subjective basis. For example, in the past, when addressing issues related to displaying the flag, there is evidence that CCBA gave advance notice to all directors presumably so all could express opinions and participate in discussion about it—once again signaling the issue and the opinions behind it are an 'important' matter." Accordingly, the flag motion was subject to, but failed to satisfy, the two-thirds supermajority requirement.

The court issued a declaratory judgment that "Ted Win Wong, in his capacity as the CCBA Director presiding over the May 25, 2013 meeting, erred in declaring that the motion providing that only the United States national flag, California state flag and CCBA flag shall be displayed within (CCBA) ('the Flag Motion') had passed. If the Flag Motion, or some similar motion, is renewed, more than two-thirds of the directors attending the meeting must vote in favor of the motion. This decision places the parties in the same position that they were in before the Flag Motion was voted on at the May 25, 2013 meeting." The court found in favor of defendants on the derivative claims alleging breach of fiduciary duty and aiding abetting breach of fiduciary duty. Plaintiffs moved for a new trial, which the court denied.

The CCBA and Wong timely appealed from the judgment. Plaintiffs cross-appealed. We consolidated these appeals from the judgment with defendants' prior interlocutory appeal from a protective order issued during trial.

DISCUSSION

I. The Appeals

A. Standing

Defendants contend plaintiffs lacked standing to pursue a derivative action pursuant to section 7710, subdivision (b) of the Corporations Code.[3] Specifically, they

[3] Corporations Code section 7710, subdivision (b) sets out the standing requirements for derivative actions against nonprofit corporations. It provides: "No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist: [¶] (1) The plaintiff

assert, plaintiffs failed to establish that: (1) they are members of CCBA; (2) they made a pre-filing demand that the Board correct the alleged voting impropriety, or a showing that a demand would have been futile; and (3) they gave the Board written notice of the ultimate facts of their proposed causes of action or their proposed complaint.

We need not address whether plaintiffs established standing for a derivative action because the cause of action to declare invalid and enjoin the flag resolution, the sole claim on which they prevailed, was properly brought as a direct, not derivative, claim. (See, e.g., *Schuster v. Gardner* (2005) 127 Cal.App.4th 305, 313 ["Examples of direct shareholder actions include suits brought to . . . enjoin a threatened ultra vires act or enforce shareholder voting rights"]; see also Friedman, Cal. Practice Guide: Corporations (The Rutter Group 2018) [¶] 6:599, p. 6-281.) Plaintiffs had standing to directly pursue such relief. "To have standing, a party must be beneficially interested in the controversy, and have 'some special interest to be served or some particular right to be preserved or protected.' [Citation.] This interest must be concrete and actual, and must not be conjectural or hypothetical." (*Iglesia Evangelica Latina, Inc. v. Southern Pacific Latin American Dist. of the Assemblies of God* (2009) 173 Cal.App.4th 420, 445-446 [ousted former board member of local church had standing to challenge district council's takeover of church through allegedly unauthorized corporate actions].) Moreover, "[s]tanding is a function not just of a party's stake in a case but the degree of vigor or intensity with which it presents its arguments." (*City of Santa Monica v. Stewart* (2005)

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alleges in the complaint that plaintiff was a member at the time of transaction or any part thereof of which plaintiff complains, or that plaintiff's membership thereafter devolved upon plaintiff by operation of law from a holder who was a holder at the time of the transaction or any part thereof complained of; and [¶] (2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file."

Further statutory references are to the Corporations Code unless otherwise designated.

126 Cal.App.4th 43, 59.) "[T]hus, a pivotal issue in standing is whether a party has sufficient interest in the issues to ensure that the suit will be pursued vigorously." (48 Cal.Jur.3d (2018) Parties, § 33, p. 136.) Plaintiffs are members of both the CCBA board and one of its member associations. In those capacities, their demonstrated interest in the flag controversy and the correct application of the CCBA's bylaws and addenda satisfy criteria for standing. Indeed, this litigation's florid history leaves no doubt that plaintiffs have pursued their legal position with utmost vigor and intensity.

Defendants argue that the Taiwanese government is the real party in interest and therefore the only appropriate plaintiff. This is so, they claim, because Taiwanese officials exercised direct control over the case by funding the litigation and participating in a settlement conference. (See Code Civ. Proc., §367.) Not so. " ' "[T]here may be as many real parties in interest as there are rights of action by substantive law." ' " (*Vaughn v. Dame Construction Co.* (1990) 223 Cal.App.3d 144, 148 (*Vaughn*); see 1 Schwing, Cal. Affirmative Def. (2d ed. 2018) § 19.1 ["a defendant asserting the absence of a real party in interest does not establish the affirmative defense merely by proving that a particular nonparty is a real party in interest"].) Thus, "where the interests of two parties interweave, either party has standing to litigate the issues that have an impact upon the related interests." (48 Cal.Jur 3d, *supra*, Parties, § 33, p. 136.) Accordingly, even if the Taiwanese government would be an appropriate plaintiff here,[4] its standing to participate would not usurp plaintiffs' right to pursue their own interests in court. Moreover, there is no apparent conflict between our conclusion that plaintiffs were proper parties to pursue their declaratory relief claim and "[t]he primary purpose underlying the requirement that an action be brought in the name of the real party in interest," i.e., "to protect a defendant from a multiplicity of suits and the further annoyance and vexation at the hands of other claimants *to the same demand.* " (*Vaughn*, *supra*, 223 Cal.App.3d at p. 149.) Defendants' speculation that Taiwanese officials might at some future time solicit other

[4] To be clear, we neither reach nor resolve the question of Taiwan's standing.

CCBA directors to pursue similar claims does not justify barring parties with an actual and substantial interest in the current dispute from proceeding.

Our determination that Taiwan's alleged interest in the flag dispute has no bearing on plaintiffs' standing dispenses with any reason to address defendant's contention that the trial court erred when it declined to compel Taiwanese government officials to testify about "the extent to which Taiwan, acting through these individuals, was controlling the case or had an ownership interest in the case sufficient to make it the real party in interest." Accordingly, defendants' interlocutory appeal from the court's order sealing and barring the dissemination of the inadvertently disclosed email addresses of several Taiwanese officials (Appeal no. A146563) is dismissed as moot. "It is well settled that the duty of this court, as of every other judicial tribunal, is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it." (*National Ass'n of Wine Bottlers v. Paul* (1969) 268 Cal.App.2d 741, 746; *Loomis v. Loomis* (1948) 89 Cal.App.2d 240, 242.)

B. Merits

Defendants contend the trial court should have declined to adjudicate the validity of the flag resolution because it presented a nonjusticiable political question. Here, too, we disagree.

Defendants' position, as we understand it, is that the dispute over the flag motion raised a political question that is "constitutionally committed for resolution to the [legislative and executive] branches" and, therefore, nonjusticiable. They rely on *Spindulys v. Los Angeles Olympic Organizing Com.* (1985) 175 Cal.App.3d 206 (*Spindulys*), which held a suit to allow the plaintiffs to represent their three Baltic states rather than the USSR in the Olympic Games was nonjusticiable (*Id*. at p 210) and *Ren-Guey v. Lake Placid 1980 Olympic Games, Inc.* (1980) 72 App.Div.2d 439, 441 [424 N.Y.S.2d 535, 536-537], *aff'd Ren-Guey v. Lake Placid 1980 Olympic Games, Inc.* (1980) 49 N.Y.2d 771 [426 N.Y.S.2d 473, 403 N.E.2d 178]) (*Ren-Guey*), which reached

the same conclusion in an action to permit Taiwanese Olympians to compete under the RoC flag, emblem, and anthem. (*Ren-Guey* at p. 474.) Both holdings were compelled by the same principle. As *Spindulys* explains: " 'The President has the sole power to recognize foreign governments. [Citations.] Whether a foreign government should be recognized is a political question that neither the United States Supreme Court nor any other American court may review." (*Spindulys*, *supra*, 175 Cal.App.3d at pp. 209-210.) Because both cases concerned the United States' relations with and recognition of other sovereigns, both raised "matter[s] of a political nature" that are not amenable to judicial resolution. (*Id*. at p. 210; *Ren-Guey*, *supra*, 426 N.Y.S.2d at p. 474.)

This case presents no such issues. The CCBA is a charitable corporation, not a government entity. Its decision to cease displaying the RoC flag has no bearing on the United States government's recognition of other governments. Contrary to defendants' assertion, neither the alleged involvement of Taiwanese officials nor defendants' attempts to subpoena those officials to testify about it made this essentially private dispute over the application of corporate bylaws into a nonjusticiable political question.

We are somewhat perplexed by defendants' apparently related argument that the flag dispute is beyond the scope of CCBA's charitable purpose. Defendants seem to assert that plaintiffs' lawsuit challenging the vote on the flag motion was beyond the scope of CCBA's articles of incorporation because it favored one of the two opposing factions in the dispute. If so, would it not follow that the Board's vote to remove the flag was also an ultra vires act? In any event, the trial court found based on CCBA's "strong historical link" to the RoC that the issues underlying the flag motion were not beyond the association's permitted purposes. That finding is supported by substantial evidence and within the court's discretion, so we will not disturb it.

Defendants contest the court's determination that the flag motion was an "important matter" within the meaning of Addendum (2) as an unwarranted interference into CCBA's internal affairs. Their point seems to be that the court should have deferred to the Board's enforcement of its own rules and, specifically, to its view of what is "important" under the bylaws. We disagree. While it is true that courts may decline to

construe the rules of private organizations where "the resulting burdens on the judiciary outweigh the interests of the parties at stake" (*California Dental Assn. v. American Dental Assn.* (1979) 23 Cal. 3d 346, 353), nothing in the record persuades us this is such a case.

Defendants also suggest the trial court should have refrained from construing "important" as used in the bylaws because the CCBA's governing documents provide no guidance on its meaning. Again, we disagree. The court inferred from the CCBA's long history of grappling with issues related to the display of the RoC flag and the strong division of feelings and opinions within its membership that the matter was an important one "[b]y any definition." "When the trial court's interpretation [of corporate bylaws] is based solely upon the terms of the written instrument, and there is no conflict in the evidence, we review the ruling de novo. [Citation.] Although we review the construction of the express terms of the instrument de novo, we review the evidence regarding the interpretation of the words under the substantial evidence test. [Citations.] We must uphold any factual determination of the trial court, express or implied, so long as there is substantial evidence in the record to support it. [Citation.] If the evidence is conflicting, we must accept that which supports the trial court's decision and make all reasonable inferences in support of the judgment." (*Singh v. Singh* (2004) 114 Cal.App.4th 1264, 1293-1294.) We do so here and conclude there is no basis to disturb the court's eminently reasonable determination that the contentious and divisive flag resolution presented an "important" matter within the meaning of the Bylaws.

I. The Cross-Appeal

Plaintiffs contend the court erred in declining to find that Wong breached his fiduciary duty as a director when he approved the vote on the flag resolution with only 21 votes in favor of passage, but they fail to identify any evidence that compels a finding that Wong, even if mistaken, acted without the good faith, diligence, loyalty or reasonable care required of a director. (§ 7231; see *Frances T. v. Village Green Owners Assn.* (1986) 42 Cal.3d 490, 514; *Professional Hockey Corp. v. World Hockey Assn.* (1983) 143 Cal.App.3d 410, 414.) We remind them: "The judgment appealed from is

presumed correct. [Citation.] The appellant must challenge it by 'rais[ing] claims of reversible error or other defect [citation], and "present[ing] argument and authority on each point made." ' [Citation.] 'This means that an appellant must do more than assert error and leave it to the appellate court to search the record and the law books to test his claim.' [Citation.] 'It is not our place to construct theories or arguments to undermine the judgment and defeat the presumption of correctness.' " (*Flores v. Department of Corrections & Rehabilitation* (2014) 224 Cal.App.4th 199, 204 (*Flores*).)

Plaintiffs also claim the court erred when it rejected their position that the flag motion was subject to the three-fourths supermajority requirement provided in Addendum (13) for "[a]ny amendment or overturn of a prior resolution." They argue that a vote in March or April 2003 to indefinitely table a similar motion was a "prior resolution" because, in their view, the Board's "undisputed intention" in 2003 was to permanently end divisive disputes over the flag. The trial court disagreed. It observed, "[t]abling a motion indefinitely is not the same thing as a vote on the merits." Plaintiffs rely on plaintiff Kwan's testimony that the directors understood the 2003 vote as permanently foreclosing the flag issue, but the trial court was free to reject Kwan's credibility or plaintiffs' view of his testimony's import. The court's finding is reasonable and plaintiffs provide no evidentiary or legal reason to disturb it.

Alternatively, plaintiffs seem to contend the court should have found the three-fourths supermajority requirement was triggered by a 2005 vote of the Board approving the settlement of another flag-related lawsuit "because the May 25 vote changed the terms of resolutions that were part of the . . . settlement." The trial court rejected that claim. It explained: "At a CCBA Board meeting held on May 28, 2005, it was announced that a lawsuit by two constituent associations had been settled. The Board voted to approve the settlement plan which had been approved by the lawyers. There is no indication in the minutes of the meeting that the settlement agreement was read or circulated to the directors in attendance. The settlement plan required that the Board of Directors enact a resolution stating that 'the display of the flag of the Republic of China in the headquarters of the [CCBA] shall continue as a manifestation of the Association's

organizational allegiance to the democratic ideals of Dr. Sun Yat Sen.' *There is no evidence that this resolution was adopted by the CCBA Board of Directors. As a result, Bylaws Addendum (13) does not apply*." (Italics added.) Plaintiffs correctly acknowledge that "[t]he minutes do not show an independent adoption of the required resolution." Nor, as far as the parties' briefs and our own review of the record have disclosed, does any other evidence.

Plaintiffs advanced a different twist on this argument when they moved for a new trial based on insufficient evidence. Rather than claiming the May 25 vote amended resolutions that were adopted as part of the 2005 settlement, plaintiffs argue it amended earlier resolutions that *resulted in* the 2005 settlement. Those resolutions, among other things, authorized "hoisting," "saluting," and "paying respect to" the RoC flag during CCBA ceremonies.[5] The trial court rejected this contention without elaboration when it denied the new trial motion.

A trial court has broad discretion in ruling on a new trial motion and the court's exercise of discretion is accorded great deference on appeal. (*City of Los Angeles v. Decker* (1977) 18 Cal.3d 860, 871-872.) The court abuses its discretion if, in light of the applicable law and considering all of the relevant circumstances, its decision exceeds the bounds of reason and results in a miscarriage of justice. (*Rayii v. Gatica* (2013) 218 Cal.App.4th 1402, 1413 (*Rayii*).) "Accordingly, we can reverse the denial of a new trial motion based on insufficiency of the evidence . . . only if there is no substantial conflict in the evidence *and the evidence compels the conclusion that the motion should have been granted*." (*Fassberg Construction Co. v. Housing Authority of City of Los Angeles* (2007) 152 Cal.App.4th 720, 752, italics added; *Rayii*, *supra*, at p. 1416.) Nothing in this record compels the conclusion that the May 25 vote to remove the RoC flag from display in the CCBA assembly hall overturned or amended prior resolutions that (1) were never formally adopted; and (2) concerned raising, saluting or otherwise honoring the flag during inauguration ceremonies.

[5] These earlier resolutions were the subject of the 2005 settlement.

Plaintiffs' final argument on cross-appeal also concerns their new trial motion. The judgment was issued July 20, 2016. On August 27, 2016, the CCBA passed a renewed resolution to remove the RoC flag from display. Just shy of a month thereafter plaintiffs sought a new trial *to invalidate the August 27 resolution*, based on claims of coercion by representatives of the Peoples Republic of China and allegations that the renewed motion failed to garner the necessary majority. The court sustained defense objections to plaintiffs' supporting declarations and ordered them stricken, denied the new trial motion, and observed that "[e]ven if the court considered [the declarations] on the merits, the motion would be denied."

Plaintiffs unconvincingly speculate that some unidentified person, likely a court clerk, forged the trial court's signature on the order. Accordingly, they maintain, we must remand the case "to ensure that the court exercised its discretion" and actually decided a motion they suggest was perhaps never brought to its attention. We can set aside that plaintiffs brought their suspicions to the trial court's attention to no avail. The burden rests on the party challenging the ruling to show error. (*Meyer v. Lindsley* (1941) 42 Cal.App.2d 698, 700.) Plaintiffs' conjecture of malfeasance within the court system aimed at sabotaging their case is insufficient to satisfy that burden. Moreover, plaintiffs fail to identify any legal or factual error in the court's highly discretionary decision. (See *Rosenfeld, Meyer & Susman v. Cohen* (1987) 191 Cal.App.3d 1035, 1052.)[6] Indeed, they fail to even acknowledge the evidentiary ruling, let alone assert it was erroneous.

[6] In their reply brief, plaintiffs assert for the first time in this appeal that the trial court had lost jurisdiction to rule on the new trial motion by the time it issued its ruling. " 'Obvious considerations of fairness in argument demand that the appellant present all of his points in the opening brief. To withhold a point until the closing brief would deprive the respondent of his opportunity to answer it or require the effort and delay of an additional brief by permission. Hence the rule is that points raised in the reply brief for the first time will not be considered, unless good reason is shown for failure to present them before.' " (*Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764.) No such reason is shown here.

Instead, plaintiffs merely insist the court was obliged to reopen the litigation to address the new vote "[t]o provide compete [*sic*] justice and avoid piecemeal litigation." No. Once again, we repeat: "The judgment appealed from is presumed correct. [Citation.] The appellant must challenge it by 'rais[ing] claims of reversible error or other defect [citation], and "present[ing] argument and authority on each point made." ' " (*Flores*, *supra*, 224 Cal.App.4th at p. 204.) Plaintiffs have not done so. " 'It is not our place to construct theories or arguments to undermine the judgment and defeat the presumption of correctness.' " (*Ibid*.)

DISPOSITION

The judgment is affirmed. Appeal No. A146563 is dismissed as moot.[7]

[7] Defendants' January 23, 2018 request for judicial notice of a document captioned "Agreement on privileges, Exemptions and Immunities between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States" is denied as irrelevant to the resolution of the issues on appeal. " 'Matters otherwise subject to judicial notice must be relevant to an issue in the action.' " (*Mangini v. R.J. Reynolds* (1994) 7 Cal.4th 1057, 1063.) Under the same authority, we also deny defendants' request for judicial notice of two scholarly articles that generally discuss the CCBA system. Defendants' January 23, 2018 request to augment the record with documents that were lodged with the trial court is granted.

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Siggins, P.J.

WE CONCUR:

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Jenkins, J.

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Fujisaki, J.